THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO.23827 OF 2005

Date: 09th October 2006

Between:
Ketamreddy Narendra Reddy,
Son of Gopal Reddy, aged 32 years,
Occ: Fair Price Shop Dealer,
Thinnelapudi (v), Kota (M),
Nellore District.

…. Petitioner.

And

1. The Collector,
   Nellore District , Nellore
   and 4 others.

…. Respondents.

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ORDER:

This writ petition is filed seeking a writ of Mandamus calling for records pertaining to impugned proceedings in Rc.E.502/2005 dated 30.9.2005 on the file of the first respondent confirming the orders passed by the Revenue Divisional Officer, as confirmed by the Joint Collector, as arbitrary and illegal.

2. It appears that the petitioner was the fair price shop dealer of Thinnelapudi village of Kota Mandal, Nellore District. While so, his authorization was cancelled by proceedings dated 01.01.2005 by the Revenue Divisional Officer, Gudur, wherein five charges were framed. Aggrieved by the same, the petitioner filed an appeal

before the Joint Collector, Nellore. However, the Joint Collector though dropped charge Nos.1, 4 and 5, on the basis of charge Nos.2 and 3, confirmed the order passed by the Revenue Divisional Officer by his proceedings dated 09.8.2005. Further aggrieved by the same, the petitioner carried the matter in appeal before the District Collector, Nellore. The District Collector, Nellore, confirmed the orders passed by the Joint Collector and rejected the appeal by an order dated 30.9.2005. Aggrieved by the same, the present writ petition is filed.

3. There is no necessity of going into all the details. So far as charge Nos.1, 4 and 5 are concerned they were dropped by the appellate authority-Joint Collector. The only charges that need to be considered are charge Nos.2 and 3. Charge Nos.2 and 3 were discussed in the order passed by the Revenue Divisional Officer as under.

> Charge No.2: The fair price shop dealer should lift total quantity of essential commodities that allotted to his fair price shop, but he failed to do so and lifted 100 Kgs. of sugar out of 383 Kgs. that allotted to his fair price shop for the month of September 2004 and he has not lifted sugar for the month of August 2004 and caused inconvenience to the cardholders of his shop and thus violated clause 3(1)(c) of Annexure to the Andhra Pradesh Public Distribution System (Control Order) 2001.
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> Explanation: He explained that he has to be sold sugar at the rate of Rs.13-50 per Kg. Whereas the open market price is Rs.12-50 and hence the cardholders are not at all purchasing the sugar and hence not only himself but also all the dealers in the state have not lifted

total allotment of sugar up to September 2004 that though he has incurred a loss of Rs.100/- in the month of August 2004, he has lifted only 100 Kgs. of sugar.

Findings: His explanation is not convincing. As per Andhra Pradesh Public Distribution System (Control Order) 2001, the fair price shop dealer should lift total quantity of essential commodities that allotted to his fair price shop and distribute them to the cardholders for the respective month only. If there is any backlog of stocks he will lift the stocks for the remaining quantity and thus he should maintain the total quantity of essential commodities that was allotted each month. As per his records there is no backlog stock of sugar in the previous month. Thus, it proves that he lifted less quantity of stocks for the month of September 2004 and caused inconvenience to the cardholders to draw sugar in that month that was allotted to them. Thus, this charge is held proved.

Charge No.3: That he, as fair price shop dealer, shall complete the accounts of his fair price shop for each day on the day, which they relate. But the fair price shop dealer though he received PDS rice on 09.9.2004 he made entries in stock register on 11.9.2004 and he has not made entry of backlog stock of 16 Kgs. of rice in the relevant column and thus violated condition 4(i) of Authorization issued under clause 5 of Andhra Pradesh Scheduled Commodities (Regulation of Distribution of Card System) Order 2001.

Explanation: He explained that it is technical and trivial one for which no punishment warrant that the RCs will speak about supply of stocks and sales register will speaks about distribution of stocks that so far the records maintained by him is absolutely there are no variation that the charge is no proximity to the present case.

Findings: His explanation is not convincing. As

> per Condition 4(ii) Authorisation issued to him the holder of this authorization shall complete his accounts for each day on the day which they relate. But he failed to do so and violated the condition laid down in the authorization issued to him and the charge is held proved.

4. Charge No.2 is that the petitioner has not lifted total stocks of sugar allotted for the month of August 2004. The petitioner was allotted 383 Kgs. of sugar, whereas he lifted only 100 Kgs. The explanation offered by the petitioner was that in the open market the rate of sugar was Rs.12-50 paisa per Kg., whereas in the fair price shops it was Rs.13-50 paise. Therefore, the cardholders were not ready to purchase the same. Insofar as this aspect, there is no dispute raised by any of the authorities. That means the authorities have accepted the statement of the petitioner that during that period the sugar in the open market was less than the rate prevailed in the fair price shops. However, for other reasons it was held that this charge was proved.

5. So far as charge No.3 is concerned, it was stated that the PDS rice was received on 09.9.2004, but the entries were made in the register on 11.9.2004. Except this, there is no other charge such as diversion of stocks or variation in the stocks or the stocks are not distributed etc., However, the petitioner gave an explanation saying that this is a trivial one and no punishment is warranted under the circumstances. Nonetheless, the Joint Collector while dropping charge Nos.1, 4 and 5 confirmed cancellation of the authorization of the petitioner on the basis of findings on Charge Nos.2 and 3 which were further confirmed by

the District Collector. I am of the opinion that the charges are very trivial in their nature. Assuming that the said charges are proved, punishment of cancellation of authorization is unwarranted in the facts and circumstances of this case. The reasons recorded against charge Nos.2 and 3 by the Revenue Divisional Officer as confirmed by the Joint Collector and further confirmed by the Collector are not based on acceptable evidence, therefore, the same is liable to be set aside and accordingly set aside.

6. In the result, the writ petition is allowed. The respondents are directed to restore the authorization of the petitioner's fair price shop dealership forthwith. No order as to costs.

C.V.RAMULU, J.

Date: 09th October 2006.
BSB